

## **REMARKS/ARGUMENTS**

The office action of February 16, 2006 (Office Action) has been considered and these remarks are responsive thereto. Reconsideration and allowance of the instant application are respectfully requested. Claims 1-37 are pending in this application.

### **35 U.S.C. §103 rejections to claims 1-13, 24-28, 31 and 33-37**

Claims 1, 3-8, 11-13, 24-27, 29-31 and 35-37 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Serandom and the cited reference entitled “Drempels” (Drempels). Claims 2, 9, 10, 14-23, 28, 33 and 34 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Serandom and Drempels and further in view of U.S. patent no. 6,507,351 to Bixler (Bixler). Applicants respectfully traverse these rejections.

#### *A. Claims 1-13, 24-28, 31 and 33-37*

No reference of record discloses or suggests the notion of an application that is *fully functional* when in an application mode, but *less than fully functional* when in screen saver mode. For this reason alone, all claims of the application are patentable over the cited art.

As an initial matter, applicants do not concede that any of the cited references may be applied as prior art against the present application, and applicants do not concede that the cited references (especially Serandom and Drempels) are enabling. Even assuming the references properly may be applied as prior art, the claimed invention is still patentable over such art.

The Serandom reference purports to teach a screen saver management and randomizer program. As set forth therein, Serandom provides a screen saver for the WINDOWS 95 operating system, the screen saver called “serandom.scr.” This program evidently does not itself act directly as a screen saver, but rather, serandom.scr allows a user to select from other screensavers that are installed on the user’s computer. The other screen savers then are run, “either in sequence or at random according to [the user’s] specifications,” *see* p. 1 of the reference. Thus, for instance, as shown in the figure on page 2 of the reference, the user has selected four screen savers (“adrift2,” “3aline,” “seraline,” and “seractal3”) from among several screen savers installed on that user’s computer. In this figure, the user has chosen for these screen savers to be selected at random (*see* the radio boxes on the right side of the figure).

Evidently, the Office Action equates the individual screen savers of Serandom (“adrift2,” etc.) with the “application” specified in the claims of the present application. Even accepting this characterization, Serandom fails to teach that such “application” is fully functional in an application mode and less than fully functional in screen saver mode. The Office Action concedes:

Serandom fails to specifically disclose a screensaver that is capable of being executed in less than a fully functional screensaver mode and a fully functional application mode.

This deficiency, however, is said to be overcome by the Drempels reference.

Drempels, however, is deficient. Drempels purports to teach a program that alters the background that is displayed on the Windows desktop – it displays “colorful, swirling, hallucinogenic patterns that resemble a hurricane or tornado.” The reference indicates that Drempels permits two modes of operation. First, Drempels “normally runs in your Windows background or “desktop,” replacing your old still-image wallpaper with gently-animating visuals...and meanwhile, you can use your computer just like you normally would.” Second, Drempels may be used as a screensaver. As set forth on page 4 of the Drempels reference, Drempels provides a .scr file (“drempels.scr”) that is said to work with the conventional Windows screen saver mechanisms (see discussion on p. 5, the release notes for v 1.4 of the Drempels software).

The Office Action contends that it would have been obvious to use drempels.scr with the screen saver manager disclosed by Serandom. Even if this assertion were correct, however, this combination would not lead to the claimed invention. The software disclosed by Drempels is not *fully functional* in an application mode but *less than fully functional* in a screen saver mode. In Drempels, some features are operable in screen saver mode but not in the desktop mode, and vice-versa. Specifically, as set forth at page 7, Drempels provides a number of user options. These options include the ability to increase or decrease the motion blur (accessible via the “+” and “-” keys respectively), the ability to zoom in or out (“J” or “K”), and so forth. In the screen saver mode (which is also called fullscreen mode, see p. 5), the user has the option to minimize the window. This option is not available in desktop mode; the reference states that this option is available in “fullscreen mode only.” Conversely, the “suspend” option is available in desktop mode only. There is no mode in which both options are present. Indeed, beyond these two

options, the modes of operation of Drempels appear to be very different from one another – in one case, Drempels provides a changing background image, while in the other, Drempels provides a changing foreground, or full screen, image. In this respect, neither mode of operation is seen to be more or less functional than the other mode.

In other words, in Drempels’ desktop mode (which the Office Action finds to be an application mode), there are features that are not available, and likewise, in screen saver mode, there are features that are not available in desktop mode. Put another way, ***there is no “fully functional” application mode.*** The screen saver mode is not a “less than fully functional” mode of operation, and the desktop mode is not a fully functional mode. Drempels thus fails to meet this element of the claimed invention, and the combination of references cited by the Office Action thus likewise fails to lead to the claimed invention. Reversal is required for this reason alone.

In the Advisory Action mailed June 6, 2006, the Office Action points to certain functionality of Drempels, specifically, the ability to “hit N to minimize the window.” The Office Action asserts that prior to January 8, 2001 (see p. 8-9 of the reference) this feature was not in Drempels, and accordingly, the Office Action concludes that Drempels had desktop and fullscreen modes of operation that had the same features. The Office Action is incorrect. As stated above, in Drempels the two modes of operation are different from one another in that in one mode the background images are cause to change and in the other foreground images are caused to change. This feature differentiates these modes of operation, **irrespective of what keys are operable.**

*B. Claims 2, 9, 10, 14-23, 28, 33, and 34*

The rejection of these claims relies on a combination of the Serandom and Drempels references with a third reference, the Bixler patent. This combination of references can be accomplished only in hindsight, however, because the Bixler reference teaches away from the technology of Serandom and Drempels.

Bixler purports to be directed towards an information management system that provides a screen saver in the form of a computer program:

[T]he present invention is a computer program product and software utility application, suitable for execution on a variety of computer systems having a user I/O interface and display device, that operates as a “screen saver” type application that allows a user to integrate and display a variety of different types of information acquired from a variety of local and remote sources such as, for example, e-mail, personal appointment reminder and calendar applications, task-scheduling applications and other conventional software utility programs

Col. 2, l. 30 *et seq.* The reference does not teach that the screen saver has a handle that executes a separate applications program. Instead, Bixler teaches that the screen saver control program *itself* acquires, organizes and displays data in a screen saver mode. The data displayed in Bixler may have originally been created by another program or taken from a program, such as an email application that stores email data in a particular folder accessible by the screen saver program. However, the screen saver program of Bixler directly accesses the data to display it, without executing the application associated with the data.

Critically, Bixler teaches away from the subject matter of executing applications to create screen saver images. In the Background of the Invention, Bixler teaches against the use of multiple programs to display disparate types of data. For instance, Bixler states that the use of multiple programs “presents a problem in that the user must routinely reactivate each individual software utility application each time access or display of particular information is desired.” Bixler, col. 1, lines 55-58. Additionally, various other problems are said to be associated with the use of separate applications.

Bixler is therefore incompatible with the Serandom reference, and is likewise incompatible with the claimed invention. The combination of references attempted by the Office Action is untenable. A person of skill in the art would not be motivated to look to the Bixler reference to supplement the teachings of Serandom. Serandom is seen by the Office Action to teach a screen saver that launches a separate application, while Bixler teaches that the use of separate applications with a screen saver program is to be avoided. Likewise, Bixler teaches

directly away from the claimed invention, for the same reasons. Thus, the subject claims – for which the Office Action improperly relies on Bixler – are patentable for this separate reason.

C. *Claims 8, 20 and 31*

The subject claims specify that the application has a first handle with associated parameters, and another handle that has different execution parameters (*see, e.g.*, specification, par. 29). The Office Action proffers two inconsistent bases for rejecting these claims, both of which are wrong.

First, in rejecting claim 8, the Office Action purports to find these teachings in Drempels, at page 8, with Drempels' teachings of command line options /s, /c, or /y. The Office Action is mistaken. In Drempels, these command line options can be used to specify whether Drempels runs only in fullscreen mode, only in desktop mode, or launches at startup, or to run the “config panel.” But these options cannot be called by the screen saver program. The subject claims require that the application be executed in accordance with the parameters associated with the handle selected for executing the application. In Drempels (in the combination with Serandom), if drempels.scr is caused to be run, the command line options are not used. The command line options are thus not “handles.”

It is noted that the Office Action, in rejecting claim 14, asserts that the claimed “handle” is met by the Serandom reference and its disclosure of the ability to select different screen savers (evidently the “handles” are asserted to be the various screen savers “adrift2,” etc.). The Office Action’s assertion that the command line parameters of Drempels are the additional “handle” of the subject claims is not only wrong, but is belied by the Office Action’s analysis of claim 14.

Second, in rejecting claim 20, the Office Action apparently ignores Drempels, but instead points to Bixler, at col. 11. The Office Action asserts that Bixler here teaches that “the application has an additional handle comprising different execution parameters.” At the referenced passage, Bixler teaches certain set-up process menus, and these teachings do not relate to handles with execution parameters.

*D. Claims 10 and 21-22*

Claim 10 specifies that the apparatus is in communication with a network, and that “images generated by the application for presentation on the display screen in screen saver mode are continually updated in response to data received from the network.” Claim 21 specifies that the application is a network application “creating images responsive to data received during operation in the screen saver mode.” The Office Action purports to find these teachings only in Bixler, at col. 3. Here, Bixler says nothing about images, or updating or creating images as specified in the subject claims. These claims are separately patentable for this additional reason.

*E. Claim 23*

Claim 23 specifies that an application is written in a JAVA programming language. The Office Action asserts that, because Java is a known language, the subject matter of claim 3 would have been an obvious modification of the references. In the cited art, however, the applications are equated by the Office Action with the .scr screen saver files, specifically drempels.scr. The Office Action has not shown that it would have been obvious to substitute a Java program for a .scr file in the Windows operating system. Although, to quote the Office Action, Java may be “notoriously well known,” it is likewise notoriously well known that .scr files are not JAVA files. Additionally, the Office Action concedes that none of the three cited references discloses JAVA.

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**Conclusion**

Based on the foregoing, Applicants respectfully submit that the application is in condition for allowance and a Notice to that effect is earnestly solicited. Should the Examiner believe that anything further is desirable in order to place the application in even better form for allowance, the Examiner is respectfully urged to contact applicant's undersigned representative at the below-listed number.

Respectfully submitted,  
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Dated: September 29, 2006

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